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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,596	10/07/2003	Christopher D. Sanders	190123-1010	5754

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EXAMINER

SWENSON, BRIAN L

ART UNIT PAPER NUMBER

3618

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,596

Applicant(s)

SANDERS ET AL.

Examiner

Brian Swenson

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-20 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/7/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 9-12 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Design Patent No. 329,833 issued to Andersson et al.

Andersson shows in Figures 1-3 a device for assisting an individual with mobility, comprising: a first front leg including a first end and a second end; and a first rear leg connected to said first front leg (right side of the device shown in Figure 1), said first rear leg including an upper member having a first end and a second end, a lower member having a first end and a second end, said first end of said upper member being pivotally connected to said first end of said lower member; see Figure 3 where the rear leg is shown to have a lower section that pivots relative to an upper section.

In regards to claim 2, Andersson et al. shows an extended use position in Figure 1 and a folded position in Figure 3.

In regard to claims 9-10 and 12 see Figure 1 that shows front and rear wheels and a handle for gripping by a user.

In regards to claim 11, Andersson et al. show in Figure 1 a first and second front and rear leg members; a crossbar for connecting the front leg members together (located in the center of the device in Figures 1 and 2) and a second cross member

(located on the left side of Figure 1) for connecting the upper parts of the rear legs together.

In regards to claim 15, see Figure 3.

In regards to claims 16-17, all the elements are shown in Figures 1-3 and are disclosed above. The connection between the upper and lower ends of the rear leg members is taken to be a hingably connection in that it meets Merriam-Webster's 10th edition definition for a hinge as: "a joint[ed] on which a swinging part (the wheel) turns".

In regards to claim 18, the handle is the means for transporting the walker.

In regards to claim 20, all the elements are shown in Figures 1-3 and are disclosed above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-7 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,837,503 issued to Chen et al. in view of Andersson et al.

Chen et al. teach in Figures 1-5 and respective portions of the specification of: a walker device for assisting an individual to walk, comprising: a first front leg (13; Figure 1) including a first end and a second end, a second front leg (13; Figure 1) including a first end and a second end, and a first cross-member (element 19 or 20) connecting said first and second front legs; a first handlebar (18; Figure 1) disposed on said first

Art Unit: 3618

end of said first front leg, a second handlebar (18; Figure 1) disposed on said first end of said second front leg, said first and second handlebars being configured for being gripped by the individual; a first rear leg (15) connected to said first front leg (see Figure 1); a second rear leg (15) connected to said second front leg; a second cross-member (21; Figure 1) connecting the first rear leg to the second rear leg; and wherein the walker is pivotal between an extended use position (Figure 1) and a folded storage position (Figure 2).

Chen et al. does not show an upper and lower member for the rear leg members.

Andersson et al., as disclosed above, teach of a walker with a rear leg members that contain upper and lower members that are pivotal/hingably connected relative to each other see Figures 1 and 3. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a rear leg member with upper and lower members that are pivotal/hingably connected relative to each other. One would be motivated to provide a pivotal/hingably connection to allow for more compact storage configuration shown by Andersson et al. in Figure 3 than the configuration shown by Chen et al. in Figure 2.

In regards to claims 3-6, Chen et al. as modified by Andersson et al. doesn't show a locking pin for fixing the axle (taken to be the pivoting element) into an extended use and folded storage position. It would have been obvious to one having ordinary skill in the art at the time of invention to use the locking pin, that includes button (50), taught by Chen in Figure 5 to provide the advantage of fixing the position of the walker in the folded and storage position.

In regards to claim 7, Andersson et al. shows in the in the invention taught by Chen et al. as modified by Andersson et al. a lower portion taken to be a core received with an upper portion taken to be a sleeve.

In regards to claims 13-14, Chen et al. teach of a seat (24), supported by cross members (20,21) and back support (31).

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter in this case is the inclusion of core that defines a locking channel for receiving a locking pin, aligned adjacent a sleeve located on the lower portion of a rear leg for a walker, where the lower portion of the rear leg is allowed to hinge to compactly store the walker, in combination with the other elements recited not found in the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,695,324 issued to Wu shows in Figures 8-9 a hinge structure for collapsing wheel structures.

U.S. Patent No. 6,863,296 issued to Yoshie et al. teaches of a collapsible walker.

U.S. Patent No. 5,772,234 issued to Luo and U.S. Patent No. 6,659,478 issued to Hallgrimsson et al. teach of a walkers.

U.S. Patent No. 5,060,967 issued to Hultstrum teaches of a collapsible mobility device.

U.S. Patent No. 6,338,493 issued to Wohlgemuth et al. teaches of a walker with a hinged rear leg assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

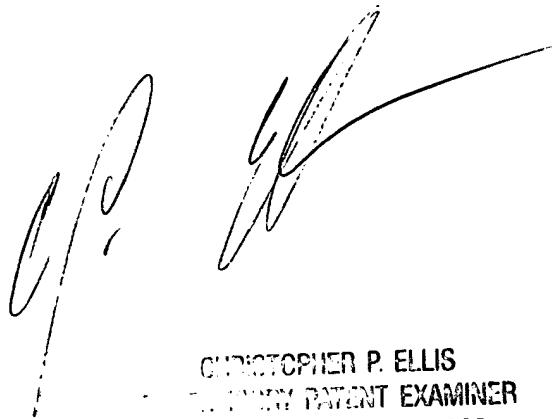
Brian Swenson
Examiner
Art Unit 3618

Application/Control Number: 10/680,596

Page 7

Art Unit: 3618

BS 9/13-28
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A handwritten signature in black ink, appearing to read 'C.P. Ellis', is written over a faint, larger signature.

CHRISTOPHER P. ELLIS
PATENT EXAMINER
TECHNOLOGY CENTER 3600